

## Report on recent US international tax developments - 19 October 2018

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The release of proposed regulations on foreign tax credit (FTC) issues arising from the *Tax Cuts and Jobs Act* (TCJA) to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) is imminent, according to a senior Treasury official, and could take place on 19 October or early next week. The official was quoted as saying that proposed regulations under Internal Revenue Code<sup>1</sup> Section 163(j) will also be sent to OIRA shortly. According to the official, the FTC package will be lengthy (around 290 pages), extremely complex and cover a wide-range of issues. The proposed regulations reportedly will cover expense allocation issues, transition rules related to excess FTC carryforwards, and overall domestic loss and foreign loss carryforwards as well as issues related to the Section 951A global intangible low-taxed income (GILTI) tax.

Another Treasury official confirmed that proposed regulations on the foreign-derived intangible income (FDII) Section 250 deduction, base erosion and anti-abuse tax (BEAT) and Section 267A anti-hybrid rules are close to being completed. Taxpayers can expect the anti-hybrid and BEAT proposed rules to go to OIRA in the next two to three weeks, the official said.

Commenting on the coming proposed previously taxed income (PTI) regulations, the senior Treasury official indicated they are unlikely to be released as a complete package by year-end, but the Government hopes to get some guidance out by then on issues affecting financial statements. The Internal Revenue Service (IRS) reportedly is still determining the full scope of the pending PTI regulations.

The OIRA also released their Fall Agenda on 17 October, generally confirming Treasury statements on the pending release of various TCJA international tax regulations.

The IRS deadline for all Qualified Intermediary (QI) (including Qualified Derivatives Dealer), Withholding Foreign Partnership and Withholding Foreign Trust applications for the 2018 year is 16 November 2018. The IRS this week reminded taxpayers that applicants that wish to have an agreement in effect in 2018 must submit their applications through the QI/Withholding Foreign Partnership/Withholding Foreign Trust Application Account Management System (QAAMS) no later than that date.

Pascal Saint-Amans, director of the Organisation for Economic Co-operation and Development (OECD)'s Centre for Tax Policy and Administration, said during an OECD webcast on 16 October that the organization is making progress toward a digital tax framework and expressed the hope that the OECD may have something tangible to report for the G-20 finance ministers meeting in June 2019. Saint-Amans said three main approaches favored by various countries came out of the last meeting of the OECD Task Force on the Digital Economy: (1) one focused on data and user participation and the role they play in highly digitalized businesses; (2) a broader approach on the allocation of taxing rights with an emphasis on market jurisdictions; and (3) a third alternative that favors a minimum tax rate. The next meeting of the OECD digital task force is slated for early December.

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## Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

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